IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Epstein et al.

Application No.: 09/117,838 Examiner: Peselev, Eli

Filed: August 12, 1998 Group Art Unit: 1623

For: MEDICAMENT AND METHOD OF TREATING AN ORGANISM WITH MEDICAMENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

CORRECTION IN THE APPEAL BRIEF UNDER 37 CFR 41.37(C)(1)(VII)

This is in response to the Examiner's letter mailed on January 6, 2010 in the above-captioned patent application. The 1-month deadline for response falls onto February 6, which is Saturday. Therefore, this paper is timely filed.

The Applicants have appealed rejections of claims of the above-identified patent application to the Board of Patent Appeals and Interferences. The Board returned the appeal to the Examiner as "it is not ready for docketing as an appeal." The Board stated, *inter alia*, that the Appeal Brief was not in compliance with 37 C.F.R. §41.37(c) as "it does not map independent claims 17 and 23 to the specification." To address the deficiency asserted by the Board, the Applicant maps the specification to independent claims 23 and 17 below.

I. INDEPENDENT CLAIM 23

Independent claim 23 recites:

> 23. A bipathic medication comprising a pharmaceutically active combination of
> i) a therapeutic dose of an active medicinal substance; and
> ii) a homeophatic dilution of said active medicinal substance;

> said active medicinal substance and said homeophatic dilution being admixed or incorporated with one another; wherein said pharmaceutically-active combination possesses enhanced therapeutic properties in comparison with said active medicinal substance alone, said enhanced therapeutic properties being enhanced therapeutic effectiveness or reduced side effects.

The specification describes a medicinal preparation that "constitute(s) an active medicinal substance in therapeutic dose with bioenergetically transferred information thereto from potentiated medicinal preparation; the latter is produced by means of homeopathic methods and has initial chemical formula (composition) identical with that of the active medicinal substance." (page 2, lns 18-22). The specification explains that the invention "comprises: (1) an active medicinal substance in therapeutic dose, (2) a potentiated medicinal preparation produced by methods of homeopathy and combined with (1) by admixing or incorporating thereto." (page 2, ln. 2 to page 3, ln. 2). The claimed combination of the therapeutic dose and the homeopathic dose of the same substance is denoted "bipathic." (page 3, ln. 23). Example 2 describes a medicinal preparation containing an admixture of "potentiated homeopathic preparation" of acetyl salicylic acid with a standard therapeutic dose of acetyl salicylic acid (page 5, lns. 6-8). Examples 3, 4, and 5 describe specific medicinal preparations containing an admixture of therapeutic dose of the active medicinal substance with a homeopathic dilution of the same medicinal substance. For example, Example 3 describes the preparation of a dilution of potentiated prednisolone by "homeopathic method in the 12^{th} centile dilution" and subsequent admixture of the dilution with the therapeutic dose of prednisolone (page 5, lns. 23-26). Example 4 describes a combination of potentiated insulin in a C30 dilution obtained by multiple dilutions and shaking with a therapeutic dose of insuline for injections. (page 6, lns. 1-4). Thus, the specification describes the preamble of claim 23 and elements a) and b) at least at page 2, lns 18-22, page 2, ln. 27 to page 3, ln. 2, page 3, ln. 23, and Examples 2, 3, 4, and 5.

The specification explains that the claimed invention is "responsible for increased therapeutic efficiency of the active medicinal substance with reduced risk of patients individual reactions and undesirable adverse after-effects." (page 3, lns. 31-34). The specification also discloses that "bipathic" medicines "provide lower conventional doses of the substance." (page 4, lns. 3-4). Example 2 states that the 'bipathic" medicine described in the example "demonstrates effective [] action with no adverse or allergic reactions and states that its

"therapeutic effect in influenza is accelerated and augmented." (page 5, lns. 17-21). Example 4 explains that the "obtained 'bipathic' remedy [] provides therapeutic efficiency at lower doses and reduced risk of adverse effects." (page 6, lns. 8-11). Example 6 explains that the bipathic medicine described in this example provides "lower toxicity of the active substance and increased therapeutic efficiency." (page 6, lns. 24-27). Thus, the specification describes the limitation "wherein said pharmaceutically-active combination possesses enhanced therapeutic properties in comparison with said active medicinal substance alone, said enhanced therapeutic properties being enhanced therapeutic effectiveness or reduced side effects" at least at page 3, lns. 31-34, page 4, lns. 3-4, and Examples 2, 4, and 6.

II. INDEPENDENT CLAIM 17

Independent claim 17 recites:

> 17. A method of making a bipathic medication, comprising the steps of:
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> providing an active medicinal substance in a therapeutic dose;
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> providing a homeopathic dilution of said active medicinal; and
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> admixing or incorporating said therapeutic dose and said homeopathic dilution with one another thus producing said bipathic medication.

The specification describes a medicinal preparation that "constitute(s) an active medicinal substance in therapeutic dose with bioenergetically transferred information thereto from potentiated medicinal preparation: *the latter is produced by means of homeopathic methods and has initial chemical formula (composition) identical with that of the active medicinal substance*." (page 2, lns 18-22). The specification explains that the invention "comprises: (1) an active medicinal substance in therapeutic dose, (2) a potentiated medicinal preparation produced by methods of homeopathy and combined with (1) *by admixing or incorporating thereto*." (page 2, ln. 2 to page 3, ln. 2).

Example 2 describes an admixture of "potentiated homeopathic preparation" of acetyl salicylic acid with a standard therapeutic dose of acetyl salicylic acid (page 5, lns. 6-8). Examples 3, 4, and 5 describe specific medicinal preparations made by an admixture of therapeutic dose of the active medicinal substance with a homeopathic dilution of the same medicinal substance. For example, Example 3 describes the preparation of a dilution of

potentiated prednisolone by "homeopathic method in the 12th centile dilutio" and subsequent admixture of the dilution with therapeutic dose of prednisolone (page 5, lns. 23-26). Example 4 describes an admixture of potentiated insulin in C30 dilution with a therapeutic dose (1ml, 40U) of insuline for injections. (page 6, lns. 1-4).

In view of the foregoing, the Applicants submit that the deficiency alleged by the Board in the Appeal Brief has been corrected. In the event that there are any fees due and owing in connection with this matter, please charge the same to our Deposit Account No. 50-4711

Respectfully submitted,

Dated: February 8, 2010

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